



U.S. Department of Justice
Criminal Division

Public Integrity Section

Washington, D.C. 20530

March 6, 2019

West Virginia Department of Commerce
1900 Kanawha Boulevard East
Charleston, WV 25305

Re: Grand Jury Subpoena – April 2, 2019

Dear Custodian of Records:

Enclosed herewith please find a Federal Grand Jury Subpoena directed to the Authorized Records Custodian of West Virginia Department of Commerce. Also enclosed is a Waiver and Certification which, if properly executed and returned with the records subpoenaed by the Grand Jury, will release you from your Grand Jury appearance on April 2, 2019. Please return a copy of the subpoena with the records.

Please execute the acknowledgment section of this letter reflecting that you have received and accepted service of this subpoena and return it to me.

The Waiver and Certification is to be returned with the records and documents by certified mail addressed to:

Simon Cataldo
1400 New York Ave
12th Floor
Washington, D.C. 20530

Thank you for your cooperation in this matter. If you have any questions, please contact me at (202) 616-2464.

Sincerely,
ANNALOU TIROL
Acting Chief
Public Integrity Section

/s/ Simon Cataldo
Simon Cataldo
Trial Attorney

Enclosures

I acknowledge receipt and accept service of the above-referenced subpoena.

Name _____

Date _____

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: West Virginia Department of Commerce, Attn: Authorized Records Custodian
1900 Kanawha Boulevard East, Charleston, WV 25305

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States District Court
300 Virginia Street, East
Room 2400
Charleston, WV 25301

Date and Time:

04/02/2019 9:30 am

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):
See attached.

Date: March 6, 2019

CLERK OF COURT



Signature of Clerk or Deputy Clerk



The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

Simon Cataldo
1400 New York Ave
12th Floor
Washington, D.C. 20530
202-616-2464

ATTACHMENT TO GRAND JURY SUBPOENA

RETURNABLE: APRIL 2, 2019

TO: West Virginia Department of Commerce
1900 Kanawha Boulevard East
Charleston, WV 25305

ATTN: **AUTHORIZED RECORDS CUSTODIAN**

PRELIMINARY MATTERS

- A. Records: The term "records" encompasses all recorded information in whatever form it exists, including, without limitation, paper documents, electronically stored information, photographs, and audio or video recordings. The term "records" specifically includes, without limitation, e-mail messages, text messages (also known as SMS or MMS messages), messages sent or received by electronic instant messaging programs, and all other similar electronic messages. The term "records" also specifically includes, without limitation, all information stored on any computer, cellular telephone, tablet computer, or other electronic device capable of storing information.
- B. Records are requested in digital format, preferably PDF images. If digital format is unavailable, please provide hard copies of the requested records.
- C. All checks, money orders, or other negotiable instruments should be copied front and back in order to obtain endorser and clearing information.
- D. If provided, please return responsive records with a completed waiver of grand jury appearance.
- E. If a document demanded by this subpoena is withheld under a claim of privilege, or is otherwise withheld, provide the following information regarding the record: (1) its date; (2) the name and title of its author(s); (3) the name and title of each person to whom it was addressed, distributed, and disclosed; (4) the number of pages; (5) an identification of any attachments or appendices; (6) a general description of its subject matter; (7) its present location and the name of its present custodian; (8) the paragraph of this subpoena

to which it is responsive; and (9) the nature of the claimed privilege or other reason the document is withheld.

SUBJECT and SCOPE OF RECORD REQUEST

Please provide records for the period beginning on January 1, 2014, and continuing through March 6, 2019, for the records specified below, as they relate to the West Virginia Department of Commerce and/or the West Virginia Development Office.

SPECIFIC ITEMS REQUESTED

1. All records relating to sponsorship contracts with The Greenbrier, The Greenbrier Classic, A Military Tribute at the Greenbrier, or Old White Charities, Inc.
2. All records pertaining to Amenity Agreements with The Greenbrier, The Greenbrier Classic, A Military Tribute at the Greenbrier, or Old White Charities, Inc.
3. All records of any communication with any person acting on behalf of The Greenbrier, The Greenbrier Classic, A Military Tribute at the Greenbrier, or Old White Charities, Inc., including, but not limited to:
 - James C Justice II
 - James C Justice III (Jay Justice)
 - Jilleen Justice
 - Habibi Mamone
 - Tim McNeely
 - Lawrence "Larry" Klein
 - James Terry Miller
 - Adam Long
 - Summer Harrison
 - Elaine Butler
 - Elmer Coppoolse
4. All records of any contract exemption requests filed with the West Virginia Ethics Commission regarding continued sponsorship of The Greenbrier Classic, or A Military Tribute at the Greenbrier.
5. All records related to the appropriation of funds by the Department of Commerce and/or the West Virginia Development

Office for The Greenbrier Classic, A Military Tribute at the Greenbrier, or Old White Charities, Inc.

6. All records related to the distribution of funds by the Department of Commerce and/or the West Virginia Development Office to or for The Greenbrier Classic, A Military Tribute at the Greenbrier, or Old White Charities, Inc.

PROOF OF SERVICE

This subpoena for *(name of individual or organization)* West Virginia Department of Commerce
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

IN RE: GRAND JURY PROCEEDINGS

WAIVER AND CERTIFICATION

I hereby state that I am the _____ of
West Virginia Department of Commerce and as such I am the custodian of the records described
in a subpoena duces tecum returnable to a Federal Grand Jury for the Southern District of West
Virginia at Charleston, West Virginia, on April 2, 2019. I understand that I have an absolute right
to appear personally, at the expense of the United States, before the Grand Jury in response to that
subpoena, to testify under oath, and to produce the records called for by that subpoena.
Nonetheless, I choose to waive that right.

Attached are the records called for by that subpoena and a list describing the type and
quantity of records being produced. I have searched and caused to be searched the appropriate
records, and to the best of my knowledge and belief the records hereby produced fully comply
with the requirements of that subpoena. The records hereby produced were (1) made at or near
the time of the occurrence of the matters set forth by, or from information transmitted by, a person
with knowledge; (2) kept in the course of a regularly conducted activity; and (3) made as a regular
practice of that activity.

I declare under penalty of perjury that the foregoing is true and correct. Executed on

Date

Signature

These documents were presented to the Grand Jury on _____

Date

(Signature of Grand Jury Foreman)

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

ADVICE TO GRAND JURY WITNESSES

This advice is given to all Grand Jury witnesses as a general practice without regard to culpability.

1. A Grand Jury consists of sixteen to twenty-three citizens who inquire into possible violations of federal law that may have occurred in this judicial district. Only the members of the Grand Jury, attorneys for the government, the witness under examination and a court reporter (and possibly a translator, if necessary) may be present in the Grand Jury Room while evidence is being presented.
2. You will be expected to answer all questions asked of you, except that you do not have to answer any question to which a truthful answer would tend to incriminate you, or if some other recognized legal privilege would apply.
3. An untruthful answer to any question may subject you to a prosecution for perjury. Anything that you say in the Grand Jury may be used against you by the Grand Jury or in Court.
4. You may consult an attorney about your Grand Jury appearance before testifying. Your attorney may wait immediately outside the Grand Jury Room while you are testifying. Upon your request, you will be afforded a reasonable opportunity to step outside the Grand Jury Room to consult with your attorney before answering any question.
5. The mere fact that a person who has been subpoenaed to testify before a Grand Jury has been advised of his or her rights should not necessarily be taken to mean that the person is likely to be charged (indicted) with a crime.

GENERAL INFORMATION REGARDING YOUR APPEARANCE BEFORE THE GRAND JURY

1. Upon receipt of your subpoena, please contact the Assistant United States Attorney (AUSA) indicated on the subpoena to obtain the precise time that you are scheduled to testify. If you fail to do so, you will be required to appear at the time indicated on your subpoena and wait until you are called. Also, please provide the AUSA with your work and home phone numbers so that you may be contacted in the event of changes in the date or time of your appearance.
2. You are not required to discuss your anticipated testimony with the AUSA before your appearance but may do so if you wish.
3. Please read the attached form regarding witness fees and expenses. The United States Attorney's Office will assist you in making travel arrangements, including method of travel and hotel accommodations if necessary. If you are excused from the Grand Jury with sufficient time left in the day to return to your place of residence that day, you are expected to do so and overnight accommodations will not be authorized in that case.
4. **YOU MUST BRING PHOTO IDENTIFICATION AND YOUR SUBPOENA WITH YOU TO THE COURTHOUSE. NO CELL PHONES ARE PERMITTED IN THE GRAND JURY ROOM!!**

If you have any questions concerning your appearance, or other questions, you should consult your attorney, or you may contact the United States Attorney's Office at 304-345-2200.



INSTRUCTIONS FOR FACT WITNESSES APPEARING ON BEHALF OF THE UNITED STATES GOVERNMENT (Not Applicable to Federal Employees)

READ THE INFORMATION CONTAINED ON THIS FORM BEFORE YOUR COURT APPEARANCE. PLEASE CALL THE INDIVIDUAL(S) LISTED BELOW FOR INFORMATION REGARDING TRAVEL ARRANGEMENTS AND SPECIFIC ENTITLEMENTS. IF YOU HAVE A MEDICAL CONDITION OR FAMILY SITUATION THAT REQUIRES SPECIAL CONSIDERATION, PLEASE ADVISE THE INDIVIDUAL LISTED BELOW AS SOON AS POSSIBLE.

CONTACT PERSON(S): Erin Quintrell

TELEPHONE NUMBERS: (304) 345-2200
1-800-659-8726

VERIFY YOUR ATTENDANCE

On the last business day (Monday-Friday) BEFORE you travel to court, call the above number to verify that your attendance is required. This may prevent a wasted trip in the event the trial date is changed.

APPEARANCE IN ANOTHER CITY

If you are required to travel to another city to appear in court, immediately contact the individual listed above and request instructions. Any amount advanced to you will be deducted from your fees and allowances.

REIMBURSEMENT OF EXPENSES AND ATTENDANCE FEES

- A. **ATTENDANCE FEE:** You will be paid a fee of \$40 per day, including travel days.
- B. **TRANSPORTATION:** Call the individual listed above to obtain information on transportation. Reimbursement will be made for travel by the least expensive method reasonably available to you. The following rules apply to transportation expenses:

1. **Local Travel:** The recommended method of travel in the local area of court is transit bus/subway.
2. **Privately Owned Vehicles** You will be reimbursed the following amounts:

(POV): Motorcycle: \$.55 per mile

Automobile \$.58 per mile

Airplane \$1.21 per mile

In addition to the above mileage allowance, necessary tolls, parking and other fees may be reimbursed. You must keep a record of your odometer readings if you travel by motorcycle or automobile. If two or more witnesses travel in the same vehicle, only one reimbursement for mileage can be made.

IF POV EXPENSES, INCLUDING MILEAGE, TOLLS, PARKING AND OTHER ASSOCIATED COSTS, ARE GREATER THAN THE GOVERNMENT AIRFARE, YOU WILL BE RESPONSIBLE FOR THE DIFFERENCE.

3. **Common Carrier:** If you are located outside the local court area, CALL THE INDIVIDUAL LISTED ABOVE FOR INSTRUCTIONS. Train, bus or airfare will be reimbursed at the Government rate. Reimbursement WILL NOT be made for First Class accommodations, "Frequent Flyer" tickets, or charter service. DO NOT purchase non-refundable tickets. If your appearance date changes or is canceled, you WILL NOT be reimbursed for non-refundable tickets. If you have any questions concerning transportation arrangements, please contact the individual(s) listed above.

- C. **MEALS:** If it is necessary for you to remain away from home overnight, you will receive the following daily meal allowances:
- \$ ____ For each travel day PLUS \$ ____ For each day at court

- D. **LODGING:** If it is necessary for you to remain away from home overnight, you will be reimbursed for the ACTUAL COST of your hotel/motel room which may not exceed \$ ____ per night, including tax.

*See below for allowances.

YOU MUST RETAIN RECEIPTS

ALL CLAIMS FOR PARKING MUST BE SUPPORTED BY A RECEIPT. OTHER EXPENSES EQUAL TO \$75 OR MORE MUST BE SUPPORTED BY A RECEIPT, WITH THE EXCEPTION OF MEALS AND MILEAGE.

DISMISSAL

When you are advised that your attendance is no longer required, you should request information regarding the payment of the fees and allowances outlined above. The individual requiring your attendance will provide you with a Fact Witness Voucher. You will be required to list your expenses on this Voucher. The Voucher will be submitted to the U.S. Marshals Service for payment. The U.S. Marshal Service will process the voucher and MAIL the payment to you. If you require funds to return home, you MUST notify the Contact Person indicated above IN ADVANCE OF YOUR TRAVEL.

Beckley:	\$55.00 Meal Allowance and \$ 94.00 Lodging Allowance Each Day- \$149.00 Total
Bluefield:	\$55.00 Meal Allowance and \$ 94.00 Lodging Allowance Each Day- \$149.00 Total
Charleston:	\$56.00 Meal Allowance and \$107.00 Lodging Allowance Each Day- \$163.00 Total
Parkersburg:	\$55.00 Meal Allowance and \$ 94.00 Lodging Allowance Each Day- \$149.00 Total
Huntington:	\$55.00 Meal Allowance and \$ 94.00 Lodging Allowance Each Day- \$149.00 Total

Form DOJ-2

Revised 10/2018